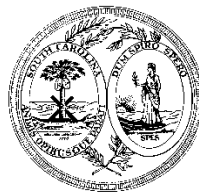


Legal Structures for Small Business

South Carolina Secretary of State's
Office



BUSINESS RULES & ONLINE TOOLS WORKSHOP



South Carolina Secretary of State's Office Secretary of State Mark Hammond

Melissa Dunlap, Chief of Staff
& General Counsel
February 6, 2009



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Legal Business Structures for a Small Business

- What is the first step?



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Where do I start?

- Secretary of State's website:
WWW.SCSOS.COM
- Business Filings Section
- Business Filings FAQs
- Forms available online



BUSINESS RULES & ONLINE TOOLS WORKSHOP

What kind of business entity do I want to create?

- Selection of an entity type
- What are the entity types I can select from on the Secretary of State's website?
- Is the name I would like my business to have available?
- Is it possible to reserve a name if I am not ready to file with the Secretary of State?



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Corporations

- The incorporator files Articles of Incorporation with the Secretary of State's Office
- Initial Board of Directors is appointed by the incorporator to appoint officers, approve bylaws, issue shares of stock
- Shareholders approve/appoint board



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Corporation

- Board authorizes decisions
- Day to day operations run by officers
- Limited Liability
- Taxed depending on type of corporate entity
- Different types of corporations exist: C-Corps, S-Corps, Statutory Close Corporations



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Limited Liability Companies

- Owners have limited liability
- Existing owners have a say over adding new owners
- Required to have LLC in the name to indicate the business is a limited liability company
- For example: The Hat Shop, LLC



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Limited Liability Company

- The owners are called members
- The LLC is formed by filing Articles of Organization with the Secretary of State's Office
- Operating agreement
- Member managed
- Manager Managed
- Term unlimited unless specified



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Limited Liability Company

- With multiple owners taxed like a partnership
- With a single owner taxed like the owner



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Nonprofit Corporation

- Usually a corporation with no part of its income going to its members, directors, or officers
- Usually formed for purposes other than for making a profit – for example religious, charitable, scientific and education purposes
- Members do not own an interest in the corporation



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Nonprofit Corporation

- File Articles of Incorporation with the Secretary of State's Office
- If the nonprofit solicits funds, it must follow the statutory requirements of the Solicitation of Charitable Funds Act (Enforced by the Secretary of State's Office)



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Limited Liability Partnership

- File with the Secretary of State's Office
- Liability shield is limited
- Partners have unlimited liability for contractual debt and misconduct
- Limited use of LLP for certain licensed professionals



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Limited Partnership

- Exists only for a certain time
- One or more limited partners
- Partner does not have power to manage
- Liability is limited to the amount of capital contribution
- Taxed like a general partnership



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Professional Corporations and Professional Associations

- Corporations created for certain licensed professions that may not limit liability for professional malpractice
- Limits ownership to licensed professional



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Sole Proprietorship

- Nothing filed with the Secretary of State
- A person who starts a business by himself without other owners
- Does not select an entity type filed with the Secretary of State's Office
- Disadvantage: unlimited liability of the owner – assets held outside the business are used to satisfy business debt



BUSINESS RULES & ONLINE TOOLS WORKSHOP

Sole Proprietorship

- Usually files taxes by filing Schedule C with his income tax return to report business income



BUSINESS RULES & ONLINE TOOLS WORKSHOP

General Partnership

- Partners with unlimited liability for each partner for all partnership debt and obligations
- Profits allocated to each partner to file with own individual tax returns



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For More Information

- WWW.SCSOS.COM



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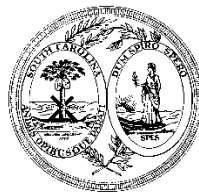
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Internal Revenue Service



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